

Message Text

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PAGE 01 GENEVA 00413 01 OF 02 121544Z
ACTION SS-25

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TO SECSTATE WASHDC PRIORITY 4671

S E C R E T SECTION 01 OF 02 MISSION GENEVA 00413

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E.O. 11652: XGDS-1

TAGS: PARM

SUBJECT: DRAFTING GROUP MEETING, NO. 182, JANUARY 11, 1978
(SALT TWO-1562)
SUMMARY:

US PROPOSED AN AGREED STATEMENT TO ART. XVI, INCORPORATING REFERENCES TO EXISTING AGREEMENTS WHICH RELATE TO NOTIFICATION OF ICBM LAUNCHES. SOVIETS AGREED TO STUDY PROPOSAL BUT THEIR INITIAL REACTION WAS CRITICAL. IN INFORMAL EXCHANGE BEFORE MEETING, US SUGGESTED AMENDMENT OF COMMON UNDERSTANDING TO ART. II.5, STIPULATING THAT SS-18 IS HEAVIEST OF HEAVY ICBMS. PRELIMINARY SOVIET REACTION APPEARED RECEPTIVE.

SOVIETS STATED THAT THEY HAD CAREFULLY REVIEWED US PROPOSAL FOR NON-CIRCUMVENTION IN ART. XII DURING YEAR-END RECESS BUT HADN'T CHANGED THEIR OPINION THAT US FORMULATION WAS INSUFFICIENT BECAUSE IT DEALT WITH INTENTIONS RATHER THAN SPECIFIC ACTIONS. KARPOV ARGUED THAT US
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PAGE 02 GENEVA 00413 01 OF 02 121544Z

PROPOSAL ADDED NOTHING OF SIGNIFICANCE TO TREATY BECAUSE IT COULD BE ASSUMED THAT NEITHER SIDE INTENDED TO CIRCUMVENT IT. OTHERWISE THERE COULD BE NO TREATY. PEREZ RESPONDED THAT US BELIEVED A NON-CIRCUMVENTION PROVISION NOT NECESSARY BUT HAD OFFERED ONE IN RESPONSE TO SOVIET WISHES. HE ASKED SOVIETS TO GIVE US PROPOSAL CAREFUL CONSIDERATION. END SUMMARY.

1. US PROPOSED AGREED STATEMENT TO ART. XVI, AS FOLLOWS:

"THE PARTIES AGREE THAT THE OBLIGATION PROVIDED FOR IN PARAGRAPH 1 OF ARTICLE XVI SHALL APPLY TO ALL ICBM FLIGHT-TESTS, INCLUDING THOSE FLIGHT TESTS FOR WHICH ADVANCE NOTIFICATION IS REQUIRED PURSUANT TO THE AGREEMENT ON MEASURES TO REDUCE THE RISK OF OUTBREAK OF NUCLEAR WAR BETWEEN THE UNITED STATES OF AMERICA AND THE UNION OF SOVIET SOCIALIST REPUBLICS DATED SEPTEMBER 30, 1971 AND THE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE PREVENT OF INCIDENTS ON AND OVER THE HIGH SEAS DATED MAY 25, 1972."

2. PEREZ NOTED THAT US PROPOSAL PICKED UP SOVIET IDEAS ABOUT MENTIONING AGREEMENTS WHICH ARE ALREADY IN FORCE AND HOPED THAT THIS WOULD HELP LEAD TO RESOLUTION OF THE PROBLEM. KARPOV QUERIED WHETHER US PROPOSAL WOULD CONSTITUTE ADDITIONAL OBLIGATIONS TO THOSE IN EXISTING AGREEMENTS. GRAHAM NOTED THAT OBLIGATIONS WOULD EXTEND BEYOND EXISTING AGREEMENTS BUT INCLUDE THEM AND POINTED OUT US PROPOSAL BASED ON PRECEDENT OF AGREED STATEMENT TO ART. IX, REFERRING TO THE SEABED TREATY. KARPOV DISPUTED THAT CASES WERE SIMILAR BECAUSE AS TO IX WAS DESIGNED TO DEAL WITH TWILIGHT ZONES, WHICH DO NOT EXIST IN XVI. HE MAINTAINED THAT US PROPOSAL FAILED TO DRAW DISTINCTION BETWEEN LAUNCHES WHICH ARE COVERED BY EXISTING AGREEMENTS AND THOSE NOT SECRET

SECRET

PAGE 03 GENEVA 00413 01 OF 02 121544Z

SO COVERED. SOVIETS DO NOT UNDERSTAND WHY EXISTING OBLIGATIONS ARE PLACED IN DOUBT. SOVIET PROPOSAL, IN CONTRAST, IS BASED ON EFFECTIVENESS OF EXISTING AGREEMENTS. IT ADDS PROVISION DEALING WITH LAUNCHES WHICH DO NOT EXTEND BEYOND NATIONAL TERRITORY BUT WHICH MIGHT GIVE RISE TO CONCERN OF OTHER PARTY. THEIR PROPOSAL IS NOT CONFINED TO FLIGHT TESTS ONLY AND SPEAKS OF LAUNCHES, THEREBY BEING MORE CONSISTENT WITH EXISTING AGREEMENTS.

3. PEREZ NOTED THAT NOTIFICATION UNDER EXISTING HIGH SEAS AGREEMENT IS NOT BI-LATERAL. DOES SOVIET PROPOSAL IMPLY DIRECT NOTIFICATION TO US IN ADDITION TO RADIO ANNOUNCEMENTS, NOTAMS, ETC? KARPOV REPLIED THAT HE SAW NO PROBLEM BECAUSE BOTH SIDES WERE AWARE OF OTHER'S ACTIVITIES. IF SCC AGREED ON BILATERAL EXCHANGE OF INFORMATION, HOWEVER, THAT WOULD BE ACCEPTABLE.

4. KARPOV NOTED THAT NON-CIRCUMVENTION LANGUAGE HAD BEEN REFERRED TO DRAFTING GROUP FOR RESOLUTION. US FORMULATION HAD BEEN DISCUSSED BY SOVIET SIDE DURING HOLIDAY RECESS BUT THIS HADN'T CHANGED THEIR OPINION THAT IT WAS INSUFFICIENT. GENERAL PRINCIPLE OF INTERNATIONAL LAW,

PACTA SUNT SERVANDA, ALREADY COVERS SAME GROUND AS US PROPOSAL. US SPEAKS OF INTENTION NOT TO CIRCUMVENT. BUT THIS INTENT MUST BE SELF-EVIDENT OR IT WOULD BE IMPOSSIBLE TO CONCLUDE TREATY. SOVIET PROPOSAL SPEAKS OF DIFFERENT, MORE SPECIFIC THINGS. IT ADDRESSES ACTIONS AND WOULD CONSTITUTE AN ADDITION TO OBLIGATIONS IN TREATY, NOT JUST A REFERENCE TO GOOD FAITH. EACH SIDE MUST ACT SO THAT ITS ACTIONS DO NOT LEAD TO CIRCUMVENTION THROUGH A THIRD STATE OR OTHERWISE. HE ASKED THAT US AGAIN RECONSIDER SOVIET

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PAGE 01 GENEVA 00413 02 OF 02 121546Z
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S E C R E T SECTION 02 OF 02 GENEVA 00413

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PROPOSAL SO THAT GROUP COULD RETURN TO QUESTION LATER,
WITH ACCOUNT TAKEN OF SOVIET VIEWS.

5. PEREZ REPLIED THAT US WILL TAKE SOVIET VIEWS INTO ACCOUNT AND DISCUSS MATTER AGAIN IN FUTURE. HE RESTATED US POSITION THAT IT WOULD NOT INTEND TO CIRCUMVENT TREATY AND DID NOT FEEL IT NECESSARY TO INCLUDE A PROVISION TO THAT EFFECT. IN RESPONSE TO SOVIET WISHES, US HAD TABLED LANGUAGE WHICH SHOULD MEET REQUIREMENTS EXPRESSED BY SOVIETS. SOVIET ACTION IN COMBINING LANGUAGE FORMERLY IN XII AND XIII, FOLLOWING INTRODUCTION OF US PROPOSAL, MADE NO MODIFICATION IN SOVIET POSITION AND WAS NOT RESPONSIVE TO US PROPOSAL. HE HOPED SOVIET SIDE WOULD GIVE CAREFUL CONSIDERATION TO US PROPOSAL FOR XII.

6. DURING INFORMAL EXCHANGE BEFORE MEETING, PEREZ AND GRAHAM POINTED OUT DESIRABILITY OF SPECIFYING IN TREATY WHICH SOVIET MISSILE WAS HEAVIEST OF HEAVIES. THEY SUGGESTED POSSIBLE AMENDMENT OF COMMON UNDERSTANDING OF

II.5 AS WAY OF DEALING WITH ISSUE, NOTING SOVIET PLENARY
STATEMENT OF JULY 15, 1977 THAT SS-18 WAS HEAVIEST.
KARPOV SAID HE THOUGHT NEGOTIATING RECORD WAS SUFFICIENTLY
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PAGE 02 GENEVA 00413 02 OF 02 121546Z

CLEAR ON THIS POINT BUT AGREED TO CONSIDER US SUGGESTION.
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